



C.M.A(MD)No.881 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.881 of 2013

and

M.P.(MD)No.1 of 2013

S.Ramalakshmi

... Appellant

Vs.

1.Chellamma

2. Minor Marimuthu

3. Minor Logeswaran

4. Divisional Manager,

M/s. National Insurance Company Limited,

No.3, North Veli Street,

Madurai-1.

... Respondents

(Minors are represented through their Mother  
and Natural Guardian Chellamma)

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act 1923, against the order, dated 30.09.2003, made in W.C.No. 149 of 2002, on the file of the Commissioner of Workmen Compensation, Madurai.

For Appellant : No Appearance  
For R4 : M/s.P.Malini

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## **JUDGMENT**

This Civil Miscellaneous Appeal is preferred by the employer.

2. An employee namely Ganesan was working under the appellant. He died during the course of employment. The legal heirs of the employee have preferred a petition before the Commissioner of Workmen Compensation. The authority has awarded a compensation of Rs.2,90,628/- along with funeral expenses of Rs. 2,500/- totally Rs.2,93,128/-. However, the Commissioner has also awarded penalty against the employer, wherein the impugned order states that the appellant after receiving summons had failed to appear and has not taken any steps to pay the compensation in time through insurance company by handing over the proper records, hence directed to pay penalty of Rs.5,000/- within 30 days from the order, failing which it was directed to deposit 50% of the award amount in addition to the above penalty with interest at the rate of 12% per annum till the date of deposit. The employer is aggrieved by imposition of penalty and 50% additional amount with 12% interest for default in paying the penalty of Rs.5000/-.



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3. It is seen that the Insurance Company has already deposited the entire amount of compensation. The present appeal is preferred only for the portion of penalty and further cost in case of default.

4. The contention of the appellant is that the compensation awarded by the Tribunal was already deposited by the Insurance Company. In such circumstances, penalty ought not to have been imposed. Moreover, the Commissioner has passed the order without issuing show cause notice which is contemplated under Sections 4A and 3(b) proviso of the Workmen Compensation Act. Further when the Insurance is covering the entire liability of the employer, imposing penalty is unwarranted. Moreover, in the summons received by the employer it is not been proposed to impose any cost on the employer. For these reasons, the present appeal is preferred.

5. After hearing the arguments of the appellant and the respondents, it is seen that the accident occurred on 22.02.2002 and the claim petition was filed immediately. However, the employer has not offered any compensation to the employee who died during the course of employment. Therefore, the Commissioner has imposed penalty of Rs,5,000/- on the employer under the



provisions of the Act. Therefore, this Court is of the considered opinion that the statutory provisions are provided for imposition of penalty in case the employer defaults in depositing the amount immediately after the accident, hence this Court is not inclined to interfere with the penalty of Rs.5000/-.

6. Further, it is an admitted fact that the Insurance Company is liable to pay the compensation awarded by the Tribunal. When the employer has insured and when the Insurance Company has discharged their liability, the imposition of further award of 50% of award in case of default is legally not sustainable. Moreover, the imposition of this amount is disproportionate and on the higher side. When the employer has discharged the liability by pay the amount through Insurance Company, imposition of penalty should be minimum. Therefore, this Court is confirming the penalty to the tune of Rs.5,000/-, but the other portion of the order imposing 50% of compensation payable with 12% interest is set aside. The appellant is directed to deposit Rs.5,000/- before the Tribunal within a period of four weeks. If there is any default, the same shall carry interest at the rate of 7.5% per annum. On such deposit, the claimants are permitted to withdraw the same.



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7. With the above said directions, the Civil Miscellaneous Appeal is disposed of as stated supra. No costs. Consequently, connected miscellaneous petition is closed.

**05.04.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

Tmg

To

1.Commissioner of Workmen Compensation,  
Madurai.

2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY, J.**

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